

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION – DAYTON**

JOHNSON ELECTRIC NORTH
AMERICA, INC.,

Plaintiff/Counter-Defendant

v.

HONEYWELL INTERNATIONAL, INC.,

Defendant/Counter-Plaintiff.

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* Civil Action No. 3:19-cv-00146-TMR

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* HON. THOMAS M. ROSE

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* **RULE 26(f) REPORT OF THE PARTIES**

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1. Pursuant to Fed. R. Civ. P. 26(f) was held on Thursday, April 30, 2020, and was attended by:

Martin Foos, counsel for Plaintiff/Counter-Defendant Johnson Electric;

Michael Brady, counsel for Plaintiff/Counter-Defendant Johnson Electric;

Amanda Fielder, counsel for Plaintiff/Counter-Defendant Johnson Electric;

Christine Haaker, counsel for Defendant/Counter-Plaintiff Honeywell; and

Sean McCormick, counsel for Defendant/Counter-Plaintiff Honeywell.

2. The Parties:

_____ have provided the pre-discovery disclosures required by Fed. R. Civ. P. 26(a)(1), including a medical package (if applicable).

 X will exchange such disclosures by **June 12, 2020.**

_____ are exempt from disclosure under Fed. R. Civ. P. 26(a)(1)(E).

3. The Parties:

_____ unanimously consent to the jurisdiction of the United States Magistrate Judge pursuant to 28 U.S.C. § 636(c).

 X do not unanimously consent to the jurisdiction of the United States Magistrate Judge pursuant to 28 U.S.C. § 636 (c).

_____ unanimously give contingent consent to the jurisdiction of the United States Magistrate Judge pursuant to 28 U.S.C. § 636(c), for trial purposes only, in the event that the assigned District Judge is unavailable on the date set for trial (e.g., because of other trial settings, civil or criminal).

4. Recommended cut-off date for filing of motions directed to the pleadings:

Johnson Electric requested: N/A

Honeywell requested: September 2, 2020, or as permitted thereafter by the Federal Rules of Civil Procedure to the extent amended pleadings are filed or additional parties added.

5. Recommended cut-off date for filing any motion to amend the pleadings and/or to add additional parties:

Johnson Electric requested: July 15, 2020

Honeywell requested: September 2, 2020

6. Recommended discovery plan:

- a. Describe the subjects on which discovery is to be sought and the nature, extent and scope of discovery that each party needs to: (1) make a settlement evaluation, (2) prepare for case dispositive motions and (3) prepare for trial:

Due to contractual confidentiality provisions, the Parties have exchanged this information directly in the process of preparing this report. In addition, the Parties have briefed the background of this dispute in the pleadings and motion practice before the Court and jointly request to forgo providing substantive responses in this publicly filed document.

- b. What changes should be made, if any, in the limitations on discovery imposed under the Federal Rules of Civil Procedure or the local rules of this Court, including the limitations to 40 interrogatories/requests for admissions and the limitation of 10 depositions, each lasting no more than one day consisting of seven (7) hours?

None, at anticipated this time. However, the Parties reserve the right to seek leave, if necessary, to modify.

- c. Additional recommended limitations on discovery:

None, at anticipated this time. However, the Parties reserve the right to seek leave, if necessary, to modify.

- d. Recommended date for disclosure of lay witnesses:

Johnson Electric requested: June 30, 2020

Honeywell requested: The Parties will disclose their lists of initial potential lay witnesses as part of the Rule 26(a) Initial Disclosures, with supplemental lists to be completed by the date of the final pretrial conference, if any. Recommended disclosure of lay witnesses the Parties may call at trial: November 6, 2020.

- e. Describe the areas in which expert testimony is expected and indicate whether each expert has been or will be specifically retained within the meaning of Fed. R. Civ. P. 26(a)(2).

Johnson Electric Response:

Johnson Electric anticipates obtaining a damages expert. Johnson Electric states that it has not retained an expert at this time.

Honeywell Response:

Honeywell anticipates obtaining liability and damages experts. Honeywell states that it has not yet retained experts at this time.

- f. Recommended date for making primary expert designations:

Johnson Electric requested: July 30, 2020

Honeywell requested:

Johnson Electric primary expert designations—January 19, 2021

Honeywell primary expert designations—March 19, 2021

- g. Recommended date for making rebuttal expert designations:

Johnson Electric requested: August 28, 2020

Honeywell requested:

Johnson Electric rebuttal expert designations—April 19, 2021

Honeywell rebuttal expert designations—May 19, 2021

- h. The Parties have electronically stored information in the following formats:

The Parties agree that discovery will include electronically stored information and accessibility will be handled by Rule 26(b)(2)(B). The Parties agree that document production will be electronic, with paper documents scanned to electronic form and ESI to include a load file. The Parties have further agreed

to claw-back language, which will be included in a stipulated protective order.

The case presents the following issues relating to disclosure or discovery of electronically stored information, including the form or forms in which it should be produced:

See above. The Parties are currently unaware of any issues relating to the disclosure or discovery of ESI.

- i. The case presents the following issues relating to claims of **privilege or of protection as trial preparation materials**:

N/A

Have the parties agreed on a procedure to assert such claims **AFTER** production?

_____ No

X Yes, *within a Stipulated Protective Order to be submitted*

_____ Yes, and the parties ask that the Court include their agreement in an order.

- j. Recommended discovery cut-off date:

Johnson Electric requested: October 30, 2020

Honeywell requested: June 18, 2021

6. Recommended dispositive motion date:

Johnson Electric requested: December 15, 2020

Honeywell requested: July 19, 2021

7. Recommended date for status conference (if any):

Johnson Electric proposed: March 2021

Honeywell proposed: July 1, 2021

8. Suggestions as to type and timing of efforts at Alternative Dispute Resolution:

The Parties agree to mediation. The Parties believe that facilitative mediation will be most successful after some discovery has been conducted, in approximately January or February 2021.

9. Recommended date for a final pretrial conference:

Johnson Electric proposed: May 2021

Honeywell proposed: Two to three weeks before trial begins.

10. Has a settlement demand been made? No. A response? No.

Date by which a settlement demand can be made: August 2020

Date by which a response can be made: 30 days thereafter

11. Other matters pertinent to scheduling or management of this litigation:

The Parties will request a stipulated protective order to protect the production of confidential and/or attorneys' eyes only information. The Parties' contractual relationships are governed by confidentiality provisions. The Court has agreed that pleadings including confidential information will be filed under seal. The Parties will continue to follow this protocol. The Parties and the Court will discuss the treatment of trial materials during the pre-trial conference.

Signatures:

Attorneys for Plaintiff(s)

/s/ Martin A. Foos

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